IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

SECOND APPEAL NOS. 460/2006 & 486 OF 2006

Vimlabai wd/o Kolbaji Gharjare & Ors. vs. Suresh Ramkiran Dhurve

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
OCTOBER 30, 2007.

Heard Shri Motghare, learned counsel for the appellant.

The present appellant Vimlabai as well as respondent Suresh had filed counter suits against each other. The suit of respondent – Suresh came to be decreed and suit filed by Vimlabai came to be dismissed. Vimlabai filed two Regular Civil Suits under Section 96 of Code of Civil Procedure and both her appeals have been dismissed. Thereafter she has approached in two Second Appeals under Section 100 of Code of Civil Procedure.

Shri Motghare, learned counsel appearing for Vimlabai argues that the sale deed of the year 1961 allegedly executed in favour of respondent was not acted and

therefore only in 1978 the sale deed was obtained by the predecessor in title of Vimlabai. He contends that this aspect has not been correctly appreciated by the Courts below.

With the assistance of the learned counsel, I have perused the impugned orders. I find that the Courts below have rightly appreciated this issue. It has been recorded that the original owners have on 27.10.1961 executed sale deed in favour of Ramkiran, father of Suresh (present respondent) and he was also placed in possession. Ramkiran got his name mutated in revenue records and his vendors cooperated him for that purpose. The said sale deed Exh. 30 has been held to be legal and valid. In this background, the second sale deed which was obtained on 21.9.1978 by father-in-law of Vimlabai, Devaji, has also been appreciated. It has also been found that said Devaji after said sale deed dated 21.9.1978 filed a Regular Civil Suit against present respondent Suresh, claiming ownership but subsequently withdrew it unconditionally. The said withdrawal and its effect has also been considered by the Courts below and said

consideration has not been challenged before this Court.

In these circumstances, I find that no substantial question of law, as sought to be raised by Shri Motghare, learned counsel for the appellant, arises in any of the Second Appeals. Both the Second Appeals are dismissed. No order as to costs.

JUDGE

*GS.